

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3448 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 - No

CHATRASINGH M MAHIDA

Versus

STATE OF GUJARAT

Appearance:

MR PB MAJMUDAR for Petitioners

MR TRILOK J PATEL for Respondent No. 2

MR SA PANDYA, APP for respondent No.1

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 05/03/99

ORAL JUDGEMENT

Present petitioner-original accused has filed this petition under sec.482 of Cr.P.C. for quashing the complaint filed by the present respondent No.2-original complainant before the Makrapura Police Station, District Vadodara on 24-10-1994 under secs.384, 114 and 506(2) of Indian Penal Code and sec.135 of Bombay Police Act. Police has registered the said complaint as Makrapura

Police Station I.C.R.No.397 of 1997 and started investigation.

2. Notice was issued to otherside and Mr.S.A.Pandya, learned APP appeared for the respondent No.1-State and Mr.T.J.Patel, learned counsel appeared for the respondent No.2.

3. I have heard learned counsel for the respective parties and also perused the FIR which has been annexed with the petition as Annexure-A at page 8. I have also gone through the reply submitted by the respondent No.2 alongwith its annexures which runs from pages 20 to 30.

4. It is not in dispute that the alleged incident has taken in two-fold. One on 24-10-1994 and another on 6-11-1994. The complainant has filed the present complaint on 4-9-1997,i.e. admittedly after three years. It is established from the said FIR that because of active involvement of the petitioner No.1, Collector has started investigation against the present complainant and as a result of that, he was sent behind bar on 27-5-1995 under Prevention of Black Marketing Act. Thereafter, his licence of fair price shops was confiscated by the authority. It is also stated by the complainant in his own complaint at para 1 that he was having four fair price shops and running the same under the names of various Cooperative Society establishments.

5. Learned counsel for the respondent No.2 has argued that now only FIR has been lodged and at the most, the Investigating Officer will investigate the matter and this is not a stage wherein Court should interfere.

6. I have gone through the FIR and if it is believed as it is, then also, no prima-facie evidence can be said to be satisfactorily established. It appears that the present complaint has been filed in order to stop the investigation. It is to be noted that the present FIR has been lodged after a period of almost three years. It is revealed from the FIR itself that because of the step taken by the present petitioner No.1-original accused against the present complainant, licence of his fair price shops was cancelled and he was sent behind bar for a long period and thereafter, he has filed the present complaint. So, there is a prima-facie evidence to show that this complaint has been filed as a counterblast against the present petitioners and this type of activity is required to be deprecated at initial stage.

7. The Hon'ble Supreme Court, in the judgment

reported in 1998 Supreme Court Cases (Cri.) 1400, known as Pepsi Foods Ltd. case, have settled the law in these type of cases. Keeping in mind the observation made in para 29 of the said judgment, I am of the opinion that it is a fit case wherein interference of this Court is absolutely necessary.

8. This application is, therefore, allowed. The complaint being Makrapura Police Station I. C.R.No.397 of 1997 filed against the present petitioners is hereby quashed. Rule is made absolute.

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